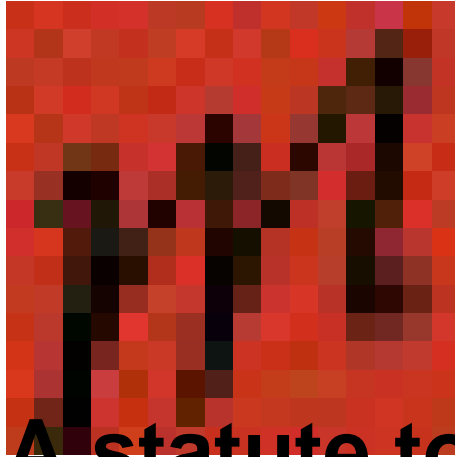


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# XV.16 A statute to make between master and slaves

- The Spirit of Law - Book XV. How the laws of civil slavery relate to the nature of the climate -

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The magistrate must see to it that the slave is provided with food and clothing : that needs to be fixed by law.

The laws must see to it that they are cared for in their illnesses and in their old age. Claudius [1] decreed that slaves abandoned by their masters when sick would be free if they survived. This law assured their freedom ; it ought also to have assured their lives.

When the law allows the master to take the life of his slave, that is a right he must exercise as judge and not as master ; the law must specify formalities to suppress suspicion of a violent act.

In Rome, when fathers were no longer allowed to put their children to death, magistrates inflicted [2] the penalty which the father wanted to prescribe. A similar practice between master and slaves would be reasonable in countries where masters hold the power of life and death.

The Law of Moses was very tough. "If someone strikes his slave, and he dies at his hand, he shall be punished ; but not if he survives for a day or two, because it is his money." [3] What a people, where civil law had to part company with natural law !

By a Greek law, slaves too roughly treated by their masters could ask to be sold to someone else. [4] In the latter times there was a similar law in Rome. [5] A master angry at his slave and a slave angry at his master need to be separated.

When a citizen mistreats another's slave, that other must be able to go before the judge. The laws of Plato [6] and of most peoples deny natural defense to slaves. They must therefore be allowed civil defense.

In Lacedæmon, slaves could obtain no justice against either insults or injuries. The excess of their misfortune was such that they were not merely the slaves of a citizen, but also of the public : they belonged to all and to one. In Rome, in a wrong done to a slave only the master's interest was taken into consideration. [7] By the Lex Aquilia, a wound inflicted on an animal or a slave was treated the same way ; attention was paid only to their reduced price. In Athens, the man who had mistreated another's slave was severely punished, sometimes with death. The law of Athens rightly was unwilling to compound the loss of liberty with that of security. [8]

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[1] Xiphilinus, in *Claudio*.

[2] See law III in the Code *de patria potestate*, which is by the emperor Alexander.

[3] [Exodus 21:20-21.]

[4] Plutarch, *De superstitione*.

[5] See the Constitution of Antoninus Pius, *Institutes*, book 1, tit. 7.

[6] Book X.

[7] It was again often the spirit of the laws of peoples who came out of Germania, as can be seen from their codes.

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[8] Demosthenes, *Orationes*, *Contra Midiam*, p. 610, Frankfort, edition of 1604.